

HOUSE BILL REPORT

HB 1897

As Reported by House Committee On:
Local Government & Housing

Title: An act relating to assumption of water-sewer districts by cities.

Brief Description: Regarding assumption of water-sewer districts by cities.

Sponsors: Representatives Simpson, Shea, Takko and Miloscia.

Brief History:

Committee Activity:

Local Government & Housing: 2/9/09, 2/11/09 [DP].

Brief Summary of Bill

- Creates an extensive set of procedural and substantive requirements that must be met before a city may assume jurisdiction over a water-sewer district, including petition requirements, feasibility studies, public hearings, review by a boundary review board, and a public vote.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: Do pass. Signed by 9 members: Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Ericksen, Assistant Ranking Minority Member; Cox, Miloscia, Short, Springer and White.

Staff: Thamas Osborn (786-7129)

Background:

Powers and Authority of a Water-Sewer District.

Water-sewer district (district) powers include the authority to purchase, construct, maintain, and supply waterworks to furnish water to inhabitants within and outside the district. District powers also include the authority to purchase, construct, maintain, and operate systems of sewers and drainage.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Assumptions of Jurisdiction Over a Water-Sewer District by a City.

State law sets forth legislative and electoral mechanisms, based upon geographic location and property valuation, for the assumption of jurisdiction (assumptions) of districts by cities or towns. There are several sets of legal requirements applicable to various types of assumptions occurring under specified circumstances and meeting specified conditions.

Whenever all of the territory of a district is located within the corporate boundaries of a city, the city legislative body may adopt a resolution or ordinance to assume jurisdiction over the entire district. State law authorizes a city to implement such an assumption without the consent of district commissioners or the voters residing within the district. Upon the completion of the assumption, the city is empowered to manage and control the district, and assumes ownership and control of all district property and facilities. Upon such assumption, the city becomes responsible for all financial, statutory, and contractual obligations related to the district's property and facilities acquired through the annexation.

Whenever a portion of a district equal to at least 60 percent of its area, or 60 percent of the assessed valuation of the real property lying within the district, is included within the corporate boundaries of a city, the city may enact an ordinance assuming full and complete management power and control of that 60 percent portion of the district. In addition, following the assumption the city has the *option* of making an arrangement with the district for what is, in effect, the shared use of facilities essential to the continued functioning of either the city system or the district's system. This arrangement may be made if, at the time of the assumption, there are facilities essential to the functioning of the entire system located either in the area of the assumption or in the remainder of the district outside of the assumption area. In such cases, the district and the city must cooperate to ensure that such essential facilities continue to provide service throughout the area encompassed by the original district system. Under certain circumstances the district may, upon a favorable vote of a majority of all voters within the district, require a city to assume responsibility for the operation and maintenance of the district's property, facilities and equipment throughout the entire district.

Whenever the portion of a district included within the corporate boundaries of a city is less than 60 percent of the area of the district and less than 60 percent of the assessed valuation of the real property within the district, the city may pass an ordinance assuming jurisdiction over the district's responsibilities, property, facilities, and equipment within the corporate limits of the city. However, as part of the assumption process, the city must make an arrangement with the district for what is, in effect, the shared use of facilities essential to the continued functioning of either the city system or the district's system. This arrangement may be made if, at the time of the assumption, there are facilities essential to the functioning of the entire system located either in the area of the assumption or in the remainder of the district outside of the assumption area. In such cases, the district and the city must cooperate to ensure that such essential facilities continue to provide service throughout the area encompassed by the original district system. The city may also assume responsibility for the operation and maintenance of the district's property, facilities, and equipment throughout the entire district upon a favorable vote of a majority of all voters within the district.

Boundary Review Boards.

Boundary Review Boards (BRBs) are authorized in statute to guide and control the creation and growth of municipalities in metropolitan areas. While statute provides for the establishment of BRBs in counties with at least 210,000 residents, current law provides that a BRB may be created and established in any other county. The BRB members are appointed by the Governor and local government officials from within the applicable county. Some members are appointed by the BRBs from nominees of special districts within the applicable county. After initial appointments, all members serve four-year terms.

Upon receiving a timely request for review that meets statutory requirements, and following an invocation of a BRB's jurisdiction, a BRB must review and approve, disapprove, or modify certain proposed actions, including actions pertaining to the creation, incorporation, or change in the boundary of any city, town, or special purpose district. In reaching decisions on proposed actions, BRBs must satisfy public hearing requirements and must attempt to achieve objectives prescribed in statute, including the preservation of natural neighborhoods and communities, and the use of physical boundaries. Generally, decisions on proposed actions must be made within 120 days of the BRB receiving a valid request for review.

Summary of Bill:

Overview of Changes to Laws Governing Assumptions of Water-Sewer Districts By Cities.

This act creates an extensive set of additional conditions and requirements that a city must meet in order to assume jurisdiction over a water-sewer district whose territory is encompassed entirely within the boundaries of the city and in those instances where only a portion of the district lies within the city boundaries. The new requirements are both substantive and procedural and, generally, are applicable to all of the various categories of assumptions.

Assumptions of a Water-Sewer District Wholly Contained Within the Boundaries of a City.

A city's assumption of a water-sewer district whose boundaries lie entirely within the boundaries of the city must comply with the following substantive and procedural requirements:

- The assumption process must be initiated by a petition proposing such assumption and which is signed by property owners who own at least 10 percent of the property within the district.
- If the petition meets the requisite legal requirements, the city council must vote on a resolution either approving or disapproving the assumption.
- If the city opts to pursue the assumption, it must implement a feasibility study in accordance with a comprehensive set of procedures and timelines.
- Upon completion of the feasibility study, the district and the city must each hold public hearings for the purpose of discussing the proposed assumption and provide an opportunity for public comment.

- Following the completion of the feasibility study and the public hearings, the governing bodies of the district and the city must each decide whether to approve the proposed assumption.
- If the district and the city both decide in favor of pursuing the assumption, they must then endeavor to negotiate an agreement regarding the terms of the assumption;
- if such an agreement is reached between the parties approving the assumption, then the assumption is final.
- An assumption agreement that is made in accordance with these requirements is not subject to review by a BRB.

If, absent an agreement with the district, the city unilaterally decides to pursue a contested assumption, then the resolution of the assumption issue is placed in the hands of the local BRB. A decision by the BRB disapproving the proposed assumption is final and brings the assumption process to an end. If the BRB approves the assumption, then an election must be held in which the voters in the district approve or disapprove the assumption.

Assumptions of a Water-Sewer District Partially Contained Within the Boundaries of a City.

An assumption by a city of any portion of a district located within the boundaries of the city is subject to the same procedural and substantive requirements applicable to assumptions of a district located entirely within the boundaries of a city.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Under current law a city can assume jurisdiction (assumption) over a water-sewer district without a vote of the people or any other semblance of due process. District residents have no power and are given no opportunity to be heard. The imbalance of power between cities and districts has caused many assumptions to become hostile, with the end result being a long drawn-out conflict that is very expensive and divisive. The bill takes a very fair, democratic approach in creating an assumption process that allows district residents an opportunity to meaningfully participate. The bill provides many desirable procedural requirements that would encourage cities and districts to work together to decide whether an assumption is indeed in the best interests of local residents. The prolonged, hostile assumption in Liberty Lake is a perfect example of why the procedures required by this bill are needed. The current law is bad law and needs fixing.

(Opposed) There are very few hostile assumptions and, therefore, this bill is wholly unnecessary. Most assumptions are agreeably worked-out through negotiation and so the provisions of this bill address a nonexistent problem. Cities are in the best position to

determine when, and if, an assumption is in the public interest. Furthermore, the Growth Management Act (GMA) recognizes that cities are the best providers of urban services such as water and sewer, and thus current law is consistent with the goals of the GMA. Current law encourages the highest level of service at the lowest cost.

Persons Testifying: (In support) Representative Simpson, prime sponsor; Joe Daniels, Washington State Association of Water and Sewer Districts; Tom Agnew, Liberty Lake Sewer and Water District; and Steve Lindstrom, Sno-King Water District Coalition.

(Opposed) Scott MacCall, City of Shoreline.

Persons Signed In To Testify But Not Testifying: None.